Calendar No. 349

100TH CONGRESS
1st Session

SENATE

REPORT
100-185

DESIGNATING A SEGMENT OF THE KINGS RIVER, CALIFORNIA AS A WILD AND SCENIC RIVER

SEPTEMBER 25, 1987.—Ordered to be printed

Mr. JOHNSTON, from the Committee on Energy and Natural Resources, submitted the following

REPORT

[To accompany H.R. 799]

The Committee on Energy and Natural Resources, to which was referred the Act (H.R. 799) to designate a segment of the Kings River in California as a wild and scenic river, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the Act, as amended, do pass.

The amendments are as follows:

1. On page 2, beginning on line 22, delete "to carry out the purposes of this paragraph." and insert in lieu thereof, ", but not to exceed $250,000, to the Secretary of Agriculture for development and land acquisition.".

2. On page 3, beginning on line 13, subsection 2(a) is amended by deleting all after "administered by" and inserting in lieu thereof "the Secretary of Agriculture (hereinafter in this Act referred to as "the Secretary") through the Sierra National Forest.".

3. On page 7, line 7, delete "1986" and insert in lieu thereof "1968".

PURPOSE OF THE MEASURE

The primary purpose of H.R. 799 is to designate a segment of the Kings River in California as a component of the National Wild and Scenic Rivers System.

91-010

S313-33

Background and Need

The Kings River originates within Kings Canyon National Park and flows into Tulare Lake in the San Joaquin Valley of California.

The Middle and South Forks of the Kings River originate in the high Sierra Nevada Mountains at nearly 14,000 feet elevation and flow in rapid descent through some of the wildest reaches of Kings Canyon National Park. The two forks join to form the Main Stem which passes through what has been called the deepest canyon in the continental United States—8,240 feet from the top of Spanish Mountain to the river.

In the 11,160 foot drop of the river it passs through all of the Sierra Nevada life zones from alpine to sonoran. The diversity of vegetation and wildlife along the river encompasses nearly all of the species to be found in the Sierra Nevadas and in some places the more rare animal species are found in large numbers.

Kings River is widely known as one of the finest trout streams in California and has been designated for special status by the State as a Wild Trout Fishery.

The upper river is a favorite of backpackers and sustains heavy use from hikers. The lower river is heavily used for general recreation but is most popular as a rafting river. It has been estimated that about 20,000 raft trips are made annually.

The South and Middle Forks of the river are free flowing. The Main Stem has been dammed downstream from the proposed wild and scenic river designation. Pine Flat Reservior has a capacity to store about 1 million acre feet and provides for irrigation water, flood control and hydropower.

While there has been a long history of water development projects proposed for the Kings River, only one is currently active and calls for a dam at Rodgers Crossing, just upstream from the upper end of Pine Flat Reservoir. The development of this site has been proposed by the Kings River Conservation District (KRCD) (an independent agency organized under California law for the purposes of providing irrigation water, hydropower and flood control).

The Kings River downstream from Kings Canyon National Park is within the boundaries of either the Sequoia National Forest or the Sierra National Forest. In both forests Kings River was evaluated for possible wild and scenic river designation during the Forest Land and Resource Management Planning process.

The draft plans of the national forests found that the river met the requirements and was eligible for classification under the Wild and Scenic Rivers Act; however in the Sequoia National Forest Plan recommendations were deferred for the segment of the Kings River being studied by KRCD.

The Committee feels that the Kings River meets the criteria for a Wild and Scenic River and would make an excellent addition to the Wild and Scenic River System.

Legislative History

H.R. 799 passed the House on April 21, 1987. A hearing was conducted by the Public Lands, National Parks and Forests Subcommittee on May 21, 1987.

At a business meeting on September 16, 1987, the Senate Committee on Energy and Natural Resources ordered H.R. 799, as amended, favorably reported.

Committee Recommendations and Tabulation of Votes

The Senate Committee on Energy and Natural Resources, in open business session on September 16, 1987, by unanimous vote of a quorum present recommends that the Senate pass H.R. 799 if amended, as described herein.

The rollcall vote on reporting the measure was 17 yeas, 0 nays as follows:

YEAS	NAYS
Mr. Johnston	
Mr. Bumpers	
Mr. Ford	
Mr. Metzenbaum*	
Mr. Bradley*	
Mr. Bingaman*	
Mr. Wirth	
Mr. Fowler*	
Mr. Conrad	
Mr. McClure	
Mr. Hatfield*	
Mr. Domenici*	
Mr. Wallop	
Mr. Murkowski	
Mr. Nickles*	
Mr. Hecht	
Mr. Evans	

*Indicates voted by proxy.

Committee Amendment

During the consideration of H.R. 799, the Committee adopted three amendments. Two of the amendments make technical changes in the Act. Only one amendment makes any substantive change in the House-passed measure. A discussion of that substantive difference follows. Additional information on these amendments is included in the "Section-by-Section Analysis" of this report.

The special management area that would be created in H.R. 799 is located in both the Sequoia and Sierra National Forests. As passed by the House, H.R. 799 would change the boundaries of the Sierra and the Sequoia National Forests such that the special management area would be entirely within the Sierra National Forest. Because of the administrative difficulties involved in altering national forest boundaries as well as changes that would occur in the manner in which receipts to the counties are distributed, the Committee amended the Act to give the Sierra National Forest management authority over the special management area while not changing the national forest boundaries.

SECTION-BY-SECTION ANALYSIS

Section 1(a) designates the Middle and South Forks of the Kings River from their source to their confluence forming the Main Stem and the Main Stem from that point downstream to river elevation 1595 feet mean sea level as a component of the Wild and Scenic Rivers System. Those segments within the boundary of the Kings Canyon National Park are to be administered by the Secretary of the Interior and the remaining segments are to be managed by the Secretary of Agriculture. The respective Secretaries are to consult with State and local officials and prepare a management plan for the river within one year of enactment. That plan prepared by the Secretary of the Interior shall be in the form of revisions to the general management plan for Kings Canyon National Park.

Section 1(b) makes a technical amendment to the Wild and Scenic Rivers Act that would clarify the designated river numbering systems.

Section 2(a) establishes the King River Special Management Area to be administered by the Sierra National Forest. The boundaries of the Sierra and Sequoia National Forests would not be adjusted.

Section 2(b) describes the Special Management Area by map reference, requires the map to be available to the public and authorizes future minor revisions of the boundary by the Secretary of Agriculture.

Section 2(c) establishes administration and management authority for the area including general authority of the Forest Service. The language also requires that the area be managed for the conservation of wildlife and natural resources, permits grazing to continue, limits timber harvest to that necessary to control fire, insects, or disease, or to conserve the scenery, natural, or historic objects in the area.

Section 2(d) withdraws the lands in the Special Management Area from actions authorized by the mining laws, mineral leasing laws, and Geothermal Steam Act of 1970; subject to any valid existing rights.

Section 2(e) requires that hunting and fishing shall be permitted in accordance with applicable Federal and State law, but permits the Secretary to close areas for public safety and other specific reasons. Consultation with appropriate State agencies is required.

Section 2(f) requires the Secretary to prepare a management plan for the special management area after consultation with the State, within 3 years after enactment of the legislation. The language describes a number of planning objectives and limitations to be incorporated into the plan.

Section 2(g) provides that access will be allowed to any private or state land or valid mining claim.

Section 2(h) recognizes that a dispute exists over the issues of constructing a dam on the Main Stem of the Kings River. In recognition of that issue the Congress specifically declares its intent, at this time, that this segment will not be declared as a component of the Wild and Scenic River System. No federal lands may be used for construction of any dam or diversion within the boundaries of the area and the river segment from 990 feet to 1595 feet (MSL)

will be subject to the provisions of Section 7(a) of the Act of October 2, 1968 (82 Stat. 906). Nothing in the Act is to preclude the Kings River Conservation District from conducting studies as they deem appropriate. However, such studies are to be conducted consistent with the provisions of the Act.

Cost and Budgetary Considerations

The Congressional Budget Office estimate of the costs of this measure has been requested but was not received at the time the report was filed. When the report is available, the Chairman will request it to be printed in the Congressional Record for the advice of the Senate.

Regulatory Impact Evaluation

In compliance with paragraph 11(b) of Rule XXVI of the Standing Rules of the Senate, the Committee makes the following evaluation of the regulatory impact which would be incurred in carrying out H.R. 799. The Act is not a regulatory measure in the sense of imposing Government-established standards or significant economic responsibilities on private individuals and businesses.

No personal information would be collected in administering the program. Therefore, there would be no impact on personal privacy.

Little, if any, additional paperwork would result from the enactment of H.R. 799, as reported.

Executive Communications

The pertinent legislative report received by the Committee from the Department of Agriculture setting forth executive agency recommendations relating to H.R. 799 is set forth below. The views of the Department of the Interior were requested on May 18, 1987. At the time this report was filed, the Committee had received no response to that request. When the report became available, the chairman will request that it be printed in the Congressional Record for the advice of the Senate.

DEPARTMENT OF AGRICULTURE
OFFICE OF THE SECRETARY
WASHINGTON, D.C. 20250

July 7 1987

Honorable J. Bennett Johnston
Chairman, Committee on Energy and Natural Resources
United States Senate
Washington, DC 20510

Dear Mr. Chairman:

This is in reply to your request for a report on H.R. 799, an act "To designate a segment of the Kings River in California as a wild and scenic river, and for other purposes."

The Department of Agriculture opposes enactment of H.R. 799, unless section 2 is deleted. We defer to the Department of the Interior for recommendations on those portions of the Kings River under its jurisdiction.

Section 1 of the bill would designate three segments of the Kings River in California as a wild and scenic river. These segments are totally free flowing and wild in character.

Section 2 would establish the Kings River Special Management Area on lands now part of the Sequoia and Sierra National Forests, modify the existing geographical boundary between the two National Forests so that the entire Special Management Area would be within the Sierra National Forest, and grant a 13-mile segment of the main stem of the Kings River the same protection from development that would apply if it were designated as part of the National Wild and Scenic Rivers System. The bill directs the Secretary of Agriculture to publish a management plan for the Special Management Area within 3 years of enactment.

The Sequoia and Sierra National Forest Land and Resource Management Plans will provide the management direction needed to provide public outdoor recreation use and protect natural values within the National Forest portion of the Kings River corridor. Designation of a Special Management Area as required by section 2(f) would unnecessarily restrict land management planning options and impose excessive management costs.

Section 2(a) would change the boundaries of the Sierra and Sequoia National Forests. This is unnecessary and would change the present distribution of receipts to the counties within the two Forests. Furthermore, personnel from the Sierra National Forest would be required to travel through the Sequoia National Forest to administer the southern portion of the Special Management Area. Section 2(g) is also unnecessary. This provision would cause confusion

with section 1323(a) of the Alaska National Interest Lands Conservation Act which is a generic access provision applicable to the entire National Forest System. With respect to the specific protections of section 2(h), the restrictions of the Wild and Scenic Rivers Act should not be applied to river segments not designated as either components of the national system or as study rivers.

The new 17-mile trail required to be constructed from Garlic Creek to Little Tehipite Valley is unnecessary. The trail would traverse extremely steep and rocky terrain and involve construction costs estimated to average $200,000 per mile.

The Office of Management and Budget advises that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Peter Myers

PETER C. MYERS
Deputy Secretary

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of Rule XXVI of the Standing Rules of the Senate, changes in existing law made by the Act H.R. 799, as ordered reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

SECTION 3 OF THE WILD AND SCENIC RIVERS ACT

SEC. 3. (a) The following rivers and the land adjacent thereto are hereby designated as components of the national wild and scenic rivers system:

(1) * * *

* * * * * * *

[56**]** *(57)* CACHE LA POUDRE, COLORADO.—The following segments as generally depicted on the proposed boundary map numbered FS–56 and dated March 1986, published by the United States Department of Agriculture, each to be administered by the Secretary of Agriculture; except that those portions of the segments so designated which are within the boundary of Rocky Mountain National Park shall continue to be administered by the Secretary of the Interior.

(A) Beginning at Poudre Lake downstream to the confluence of Joe Wright Creek, as a wild river. This segment to be designated the "Peter H. Dominick Wild River Area".

(B) Downstream from the confluence of Joe Wright Creek to a point where the river intersects the easterly north-south line of the west half southwest quarter of section 1, township 8 north, range 71 west of the sixth principal meridian, as a recreational river.

(C) South Fork of the Cache la Poudre River from its source to the Commanche Peak Wilderness Boundary, approximately four miles, as a wild river.

(D) Beginning at the Commanche Peak Wilderness Boundary to a point on the South Fork of the Cache la Poudre River in section 1, township 7 north, range 73 west of the sixth principal meridian, at elevation 8050 mean sea level, as a recreational river.

(E) South Fork of the Cache la Poudre River from its intersection with the easterly section line of section 30, township 8 north, range 72 west of the sixth principal meridian, to confluence of the main stem of the Cache la Poudre River, as a wild river.

With respect to the portions of the river segments designated by this paragraph which are within the boundaries of Rocky Mountain National Park, the requirements of subsection (b) of this section shall be fulfilled by the Secretary of the Interior through appropriate revisions to the general management plan for the park, and the boundaries, classification, and development plans for such portions need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of parklands shall be undertaken that

is inconsistent with the designation of such river segments as a wild river. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated $500,000 for development and $2,500,000 for land acquisition.

[(57)] *(58)* SALINE BAYOU, LOUISIANA.—The segment from Saline Lake upstream to the Kisatchie National Forest, as generally depicted on the Proposed Boundary Map, numbered FS-57, and dated March 1986; to be administered by the Secretary of Agriculture. For the purposes of the segment designated by this paragraph, there are authorized to be appropriated for fiscal years commencing after September 30, 1986, not to exceed $1,000,000 for the acquisition of lands and interests in lands and for development.

[(58)] *(59)* BLACK CREEK, MISSISSIPPI.—The segment from Fairley Bridge Landing upstream to Moody's Landing as generally depicted on a map entitled "Black Creek Wild and Scenic River", numbered FS-58, and dated March 1986, to be administered by the Secretary of Agriculture as a scenic river area under section 2(b)(2). For the purposes of the segment designated by this paragraph, there are authorized to be appropriated up to $300,000 for the acquisition of lands and interests in lands and for development.

[ ] *(60)* Klickitat, Washington: The segment from its confluence with Wheeler Creek, Washington, near the town of Pitt, Washington, to its confluence with the Columbia River; to be classified as a recreation river and to be administered by the Secretary of Agriculture.

[ ] *(61)* White Salmon, Washington: The segment from its confluence with Gilmer Creek, Washington, near the town of B Z Corner, Washington to its confluence with Buck Creek, Washington; to be classified as a scenic river and to be administered by the Secretary of Agriculture.

(62) KINGS, CALIFORNIA.—The Middle Fork of the Kings River from its headwaters at Lake Helen between Muir Pass and Black Giant Mountain to its confluence with the main stem; the South Fork, Kings River from its headwaters at Lake 11599 to its confluence with the main stem; and the main stem of the Kings River from the confluence of the Middle Fork and the South Fork to the point at elevation 1595 feet above mean sea level. The segments within the Kings Canyon National Park shall be administered by the Secretary of the Interior. The remaining segments shall be administered by the Secretary of Agriculture. After consultation with State and local govenments and the interested public and within one year after the enactment of this paragraph, the respective Secretaries shall take such action as is required under subsection (b) of this section. In the case of the segments of the river administered by the Secretary of the Interior, the requirements of subsection (b) shall be fulfilled through appropriate revisions to the general management plan for Kings Canyon National Park, and the boundaries, classification, and development plans for such segments need not be published in the Federal Register. Such revisions to the general management plan for the park shall assure that no development or use of park lands shall be undertaken that is inconsistent with the

designation of the river under this paragraph. For the purposes of the segments designated by this paragraph, there are authorized to be appropriated such sums as may be necessary, but not to exceed $250,000, to the Secretary of Agriculture for development and land acquisition.

○